

IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX
APPELLATE DIVISION

JANNETH K. MARTIN,)	
	Appellant,)
) D.C. CIV. APP. NO. 1999/0085
v.)
) Re: T.C. CIV. NO. 277/1998
VERONICA MARTIN,))
	Appellee.)
)

On Appeal from the Territorial Court of the Virgin Islands
 Considered: September 28, 2001
 Filed: February 3, 2003

Before: **RAYMOND L. FINCH**, Chief Judge of the District Court of the Virgin Islands;
 THOMAS K. MOORE, Judge of the District Court of the Virgin Islands; and
 RHYS S. HODGE, Judge of the Territorial Court of the Virgin Islands.

APPEARANCES:

Ellen G. Donovan, Esquire
 St. Croix, U.S. Virgin Islands
Attorney for Appellant,

Martial Webster, Esquire
 St. Croix, U.S. Virgin Islands
Attorney for Appellee.

OPINION OF THE COURT

PER CURIAM.

This appeal arose out of a forcible entry and detainer action in the Territorial Court (Civil Division). Following a Judgment of Eviction in favor of Janneth K. Martin, the Civil Division vacated its judgment *sua sponte*, finding that the ownership of Plot 286 Williams Delight, Frederiksted, St. Croix, Virgin Islands was under judicial review in the Family Division of the Territorial Court, resulting in this appeal. The issue presented is whether Veronica Martin's ownership interest in the subject property was *res judicata*, precluding the Civil Division from

questioning that previously litigated issue. We hold that it was, and accordingly, will REVERSE and REMAND the case with direction that the Territorial Court reinstate its judgment of eviction.

I. FACTS AND PROCEDURAL HISTORY

Janneth and Veronica Martin were husband and wife who, at one time, lived together with their children at Plot 286 Williams Delight, Frederiksted, St. Croix, Virgin Islands (property). On March 30, 1984, when the parties were divorced, Veronica Martin was given a possessory interest in the property to terminate when the couple's youngest child turned eighteen years old. Accordingly, she lived in the home until February 1, 1998 when the couple's youngest child turned eighteen; at which time, her ex-husband sought to have her evicted.

Although Mr. Martin initially prevailed in the eviction action, the court below vacated its order after reviewing the associated divorce file *sua sponte* because the Judge determined that the Family Division did not actually resolve the issue of ownership of the real property. He based this conclusion on a handwritten record of proceedings in the divorce file, which indicated that on March 8, 1984, the Family Division Judge requested a transcript of an earlier hearing.¹ Apparently, this transcript would have assisted the Family Division Judge with finally determining who owned the property, had she not already done so.

¹ While the Civil Division vacated its own order, based on a "note" in the Divorce file, we need not determine whether, as appellant maintains, this was inappropriate. The so-called note was merely an indication that the Family Division Judge intended to request a transcript of an earlier proceeding. The note does not reveal whether the Judge ultimately received a transcript, whether she elected to review her own notes, whether she spoke with the court reporter in person, or whether the Judge decided that a transcript was simply unnecessary. It does not, in and of itself, indicate that the Judge failed to consider the issue of the marital home, and in no way indicates that the Judge did not consider all of arguments presented. When, a short time after requesting the transcript, the Judge determined that the appellee would only receive limited possession of the home, the issue was decided, whether or not the Judge requested a transcript.

II. DISCUSSION

A. Jurisdiction and Standard of Review

This court has appellate jurisdiction to review judgments and orders of the Territorial Court in all civil cases. V.I. CODE ANN. tit. 4 § 33; Revised Organic Act of 1954 § 23A.² Our review of the Territorial Court's application of legal precepts is plenary. Prosser v. Prosser, 34 V.I. 139, 921 F. Supp. 1428 (D.V.I. App. Div. 1996).

B. The Decree of Divorce is a final decision on the merits and precludes relitigation of the disposition the marital property.

In the forcible entry and detainer action below, Janneth Martin sought to evict his ex-wife from the property where she was living. At trial, Janneth Martin produced the deed to the property as proof of his exclusive ownership; however, Veronica Martin argued that she could not be evicted because she owned the property jointly with her ex-husband. Initially, the deed was accepted as proof of Mr. Martin's exclusive ownership, and the Civil Division entered a Judgment of Eviction in favor of Janneth Martin. Veronica Martin moved for reconsideration but the court denied her motion. Consequently, Janneth Martin obtained a Writ of Restitution on July 6, 1998 and evicted Veronica Martin from the property.

However, on March 9, 1999, the court entered an order vacating its previous judgment and dismissing the complaint. The court's order indicated that it had reviewed the file from the parties' action for divorce *sua sponte* and concluded that the Family Division had not resolved the issue of ownership. Janneth Martin's motion for reconsideration was thereafter denied and he filed his Notice of Appeal on April 28, 1999.

² 48 U.S.C. § 1613a. The complete Revised Organic Act of 1954 is found at 48 U.S.C. §§1541-1645 (1995), *reprinted in* V.I. CODE ANN., Historical Documents, Organic Acts and U.S. Constitution at 73-177 (codified as amended) (1995 & Supp. 2001) (preceding V.I. CODE ANN. tit. 1) ["Revised Organic Act"].

Janneth Martin contends that the Civil Division's *sua sponte* investigation, and the resulting order, was improper and an abuse of discretion. In support of his contention, appellant relies on the divorce decree, arguing that the distribution of the marital property set forth therein is *res judicata* for purposes of the forcible entry and detainer action. Specifically, Janneth Martin argues that the provision awarding his former wife limited possession of the marital home precluded the Civil Division from reconsidering whether she had any additional interest in the property.

In response, Veronica Martin notes that the decree of divorce is actually silent as to ownership of the property. She contends that title to the property was not at issue in the divorce proceeding and that, as a result, the Family Division's decree is not entitled to preclusive effect with respect to the issue of title. Thus, the question before this court is whether the divorce decree was a sufficiently final adjudication with respect to the issue of ownership of the property to have precluded appellee from raising the issue of ownership before the Civil Division.

Issue preclusion, or collateral estoppel, applies where the parties actually had an opportunity to assert their rights in a previous action. It works to prevent needless duplication and expense once there has been a valid final determination on the merits.³ Bower v. O'Hara, 759 F.2d 1117 (3d Cir. 1985). A final judgment deserving of preclusive effect results from any prior adjudication of an issue that is sufficiently firm to be accorded conclusive effect. Id. In determining whether resolution of the issue in the first proceeding was sufficiently firm, the court should consider whether the parties were fully heard, whether a reasoned opinion was filed,

³ However, unlike claim preclusion, issue preclusion does not require entry of a judgment that is "final" in the sense of being appealable. Rather, the court should take a pragmatic approach; a judgment may be sufficiently final where "the litigation of a particular issue has reached a stage that a court sees no really good reason for permitting it to be litigated again." Dyndul v. Dyndul, 620 F.2d 409, 411(3d Cir. 1980)(quoting Lummus Co. v. Commonwealth Oil Ref. Co., 297 F.2d 80, 89 (2d Cir. 1961)).

and whether that decision could have been, or actually was appealed. Id. In this case, the Civil Division should have considered these factors and, having done so, would have concluded that the issue of whether Veronica Martin had an ownership interest in the property was actually litigated and that the Family Division's determination was sufficiently final to command preclusive effect.

Veronica Martin was represented by counsel in the divorce proceedings. Hearings were held on several occasions and the parties contested the issues of possession and ownership from the outset.⁴ The Family Division issued a written decree and only awarded Veronica Martin a limited possessory interest in the property despite her arguments that she had an ownership interest.⁵ Further, Ms. Martin did not elect to appeal any of the Family Division's decisions, but instead, remained in the home, paying no rent, for over fourteen years after the divorce was final.

⁴ In her Complaint in the Divorce Action, Veronica Martin put the disposition of the property directly in issue. Specifically, she averred that there is real property that is jointly owned by the parties, the disposition of which is in dispute.

⁵ Although the Family Division orally determined the respective rights of the parties on March 8, 1984, indicating that Janneth Martin's attorney would prepare a decree, the record of proceedings provided: RE: Real Property, Court requested transcript. Nonetheless, several weeks later, the Judge signed a written decree that awarded Veronica Martin only a limited possessory interest in the property. This Decree was signed in spite of appellee's proposed findings of fact, wherein it was offered that Veronica Martin was entitled to both title and possession of the marital home. The Court simply did not adopt those findings, but instead signed a decree that gave her a mere possessory interest. This was no oversight. Ms. Martin highlighted the discrepancy between her proposed findings and the final decree in her motion of February 4, 1998, but the court, once again, declined to award her any legal interest beyond that of limited possession.

The Family Division gave no indication that its decision was tentative or likely to be changed.⁶ To the contrary, faced with numerous motions the Family Division consistently declined to give Veronica Martin anything more than limited possession of the home and unequivocally refused to entertain further argument on the issue. The decree did not reserve the issue for future determination, nor did the court seek additional briefing or testimony.

Implicit in the conclusion that Ms. Martin was only entitled to possession is the determination that her assertions of ownership were rejected. To litigate those issues again would be a waste of judicial resources; and, to permit appellee to raise those issues again before a different division of the court would result in duplication of effort by the Family and Civil Divisions of the Territorial Court. The Family Division plainly declined to award her an ownership interest in the home. Thus, the issue was actually and extensively litigated and the resulting valid and unappealed Divorce Decree was sufficiently final to command preclusive effect when presented in the Civil Division.⁷

⁶ This conclusion is bolstered by the fact that the Family Division denied Veronica Martin's Motion to Modify Divorce Decree of February 4, 1998 (Denied February 20, 1998) as well as her Motion to . . . Distribute Marital Homestead of April 30, 1998 (Denied May 13, 1998) even though appellee specifically argued that the disposition of the marital home was unclear. Thus, appellee, having made her arguments to the Family Division, cannot rehash those arguments before a different tribunal hoping for a different result. Simply stated, the Decree awarded her possession of the appellant's house, but only until her youngest child turned eighteen years old.

⁷ The Virgin Islands Code provides that, in an action to recover the possession of land, the merits of title shall not be inquired into. 28 V.I.C. §793. While three years' possession may be pleaded as a bar, it may not be pleaded where the estate of the possessor is "ended." *Id.* Thus, even if the Family Division did not resolve the issue of title, the Civil Division was compelled to accept Mr. Martin's documentary evidence of title, and the merits of title should not have been inquired into *sua sponte* or otherwise. Likewise, Mrs. Martin's possession was no bar, her possessory estate having ended upon her youngest child's eighteenth birthday.

III. CONCLUSION

Having decided that issue preclusion applies, we hold that appellee was precluded from asserting her ownership interest before the Civil Division in the forcible entry and detainer action, and that, by failing to recognize the preclusive effect of the Family Division's Decree, the court below erred.

FOR PUBLICATION

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St. Croix, U.S. Virgin Islands
Attorney for Appellee.

ORDER OF THE COURT

AND NOW this 3 day of Feb. 2003, having considered the arguments and submissions
of the parties, and for the reasons set forth in the accompanying opinion of even date, it is hereby

ORDERED AND ADJUDGED that this matter is **REVERSED**, and **REMANDED**

with instructions to reinstate the judgment of eviction in favor of Janneth Martin.

ATTEST:

WILFREDO MORALES

Clerk of the Court

/s/

By: Deputy Clerk

Copies (with accompanying opinion) to:

Judges of the Appellate Panel
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